The Question and the Answer(s)

Lecture 12 HUMS3001

Benjamin Miller

Lecture Overview

- Exam Structure
- Part One
  - Harm, democracy, speech acts, responsibility (individual and institutional)
- Part Two
  - Free speech and political lines, the panopticon, hate speech, responsibility and censorship
- Questions

Exam Structure

EXAM - 30% of overall course grade

- Part One (50 marks)
  - Four questions
  - Answer One
  - Analyse ONE case
- Part Two (50 marks)
  - Four different questions
  - Answer One
  - Analyse TWO cases

The Question

- To what extent can/should an individual, society or government restrict an individual's freedom to create/say/do something?

Case Studies

- Alan Jones / Cronulla Riots
- Kyle / Jackie O
- Journalists
  - Harvey/McManus
  - Lampathakis
  - Chris Graham
- Mohammed Cartoons
- Sedition Laws
  - Mohammed Haneef
  - Jack Thomas
  - Banned books
- Bill Henson
- *Mysterious Skin*
- *Ken Park*
- Ern Malley
- Demidenko/Darville
- Academics
  - Andrew Fraser
  - Nelson/Bolt
  - Burke/Bendle
  - Mees
- *The Chaser*

Part One, topic one

- Harm Principle
  - "Power can be rightfully exercised over any member of a civilised society, against his will […] to prevent harm to others" (JS Mill's harm principle)
  - Mill's concept of liberty
  - The limits of liberty and the harm principle

- Limits of the Harm Principle (relevant cases)
  - Anti-terror cases (Jack Thomas, Mohamed Haneef, Bikie legislation, banned books)
  - Henson or Hookey (artistic freedom vs community standards)
  - *Mysterious Skin* or *Ken Park* (different views of education merit)

Part One, topic two

- Democracy and media
  - "Most Australians today are not democrats, that is, people who believe in popular rule" (Terry Irving in *The Southern Tree of Liberty* 2006)
  - Features of democracy
  - The relationship between media and democracy
  - Does the Australian media support democracy?

- Media/Democracy cases:
  - ‘Right to Know’ campaign
  - Harvey/McManus
  - Paul Lampathakis
  - Media ownership/bias
  - Chris Graham and Kessing cases
- Media and ‘popular rule’

Part One, topic three

- Speech acts and harm
  - “The uttering of the words [… can be the] leading incident in the performance of an act” (J.L. Austen, *How to do things with words* 1962, 8)
  - Speech acts - performative utterances
  - Can words cause harm?

- Speech act cases:
  - Andrew Fraser
  - Alan Jones
  - Kyle and Jackie O
  - Mohammad cartoons

Part One, topic four

- Institutions, Individuals and responsibility
  - “Liberal institutions have a responsibility to help individuals become responsible subjects” (Moritz HUMS3001 Lecture 5)
  - Liberal institutions
  - Liberalism - individuals - responsibility

- Institution / individual cases
  - Nelson / Bolt (the blurring of the spheres?)
  - Whistleblower legislation
  - Media bias / ‘Right to Know’
  - Alan Jones

Part Two, topic one

- Free Speech and political lines
  - Claiming something to be free speech “will always be evidence that a political line has been drawn rather than a line that denies politics entry into the forum of public discourse” (Fish 114)
  - Solicitation
  - Public discourse/forums

- Free speech / political lines cases:
  - Mohammad Cartoons
  - *Ken Park*
  - Ern Malley
  - Young Liberals campaign
  - Alan Jones

Part Two, topic two

- The panopticon / tower
  - “every citizen of an enlightened society is wired to the Tower and yet remains only marginally aware of the attachment” (Curry Jansen)
  - Self-surveillance leads to self-censorship

- Panopticon cases:
  - Anti-terror cases
  - Paul Mees - journalism cases
  - *Mysterious Skin* or *Ken Park*

Part Two, topic three

- Speech effects (especially hate speech)
  - “Hate speech enacts hatred discursively in complex ways, and with concrete negative consequences for its targets” (Gelber)
  - Speech and consequences

- Hate Speech cases
  - Andrew Fraser
  - The Chaser
  - Alan Jones
  - Mohammad cartoons

Part Two, topic four

- Freedom, responsibility and censorship
  - “Because there is no such thing as freedom, we must take responsibility for our actions”
  - Link to censorship

- Responsibility / censorship cases:
  - *Ken Park* and *Mysterious Skin*
  - Kyle and Jackie O and Alan Jones
  - Henson and the Mohammed cartoons

The Answer

To what extent can/should an individual, society or government restrict an individual's freedom to create/say/do something?

- Can
  - Legislation (the Code, the Act, Anti-terror laws), the panopticon (social mores, media bias, self-censorship)
- Should
  - Depends on your definition of 'harm', 'freedom', 'liberty'
  - Any definition is *political*

Course/Exam Questions?

- Can I use the same case twice?
- Where is the exam?
- Can I take anything into the exam?
- How do I cite quotes in the exam?
- How much should I write?

Course Feedback

- CATEI
- Short survey through myUNSW
- Be honest and constructive
- Important for a new course in an elearning pilot program